

*Sanctioned European Union country construction* means construction to be performed in a sanctioned European Union member state.

*Sanctioned European Union country end product* means an article that—

(1) Is wholly the growth, product, or manufacture of a sanctioned European Union (EU) member state; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a sanctioned EU member state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of these incidental services does not exceed that of the article itself.

*Sanctioned European Union country services* means services to be performed in a sanctioned European Union member state.

*Sanctioned European Union member state* means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, or the United Kingdom.

*United States* means the 50 States, the District of Columbia, and outlying areas.

*U.S.-made end product* means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 24322, Apr. 25, 2000; 66 FR 65371, Dec. 18, 2001; 66 FR 65350, 65371, Dec. 18, 2001; 67 FR 6117, Feb. 8, 2002; 67 FR 21535, Apr. 30, 2002; 67 FR 70520, Nov. 22, 2002; 68 FR 28083, May 22, 2003; 68 FR 56685, Oct. 1, 2003; 69 FR 1053, Jan. 7, 2004; 69 FR 34240, June 18, 2004]

## Subpart 25.1—Buy American Act—Supplies

### 25.100 Scope of subpart.

This subpart implements the Buy American Act (41 U.S.C. 10a-10d) and Executive Order 10582, December 17, 1954. It applies to supplies acquired for use in the United States, including supplies acquired under contracts set aside for small business concerns, if—

(a) The supply contract exceeds the micro-purchase threshold; or

(b) The supply portion of a contract for services that involves the furnishing of supplies (e.g., lease) exceeds the micro-purchase threshold.

[64 FR 72419, Dec. 27, 1999; 65 FR 4633, Jan. 31, 2000]

### 25.101 General.

(a) The Buy American Act restricts the purchase of supplies that are not domestic end products. For manufactured end products, the Buy American Act uses a two-part test to define a domestic end product.

(1) The article must be manufactured in the United States; and

(2) The cost of domestic components must exceed 50 percent of the cost of all the components.

(b) The Buy American Act applies to small business set-asides. A manufactured product of a small business concern is a U.S.-made end product, but is not a domestic end product unless it meets the component test in paragraph (a)(2) of this section.

(c) Exceptions that allow the purchase of a foreign end product are listed at 25.103. The unreasonable cost exception is implemented through the use of an evaluation factor applied to low foreign offers that are not eligible offers. The evaluation factor is not used to provide a preference for one foreign offer over another. Evaluation procedures and examples are provided in Subpart 25.5.

### 25.102 Policy.

Except as provided in 25.103, acquire only domestic end products for public use inside the United States.